

OA 91 Criminal Complaint

## United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

UNITED STATES OF AMERICA  
v.

Mabelle de la Rosa Dann aka Mabelle Crabbe

## CRIMINAL COMPLAINT

4 - 08 - 70330  
Case Number: *WDB*

(Name and Address of Defendant)

ORIGINAL

I, the undersigned complainant being duly sworn state that the following is true and correct to the best of my knowledge and belief. On or about July 2006 - April 2008 in Contra Costa County, in CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA OAKLAND defendant(s) did,

the Northern District of California (Date)

FILED

JUN - 5 2008

(Check Statutory Language of Offense)

did knowingly and in reckless disregard of the fact that an alien has come to, entered, and remained in the United States in violation of the law, concealed, harbored and shielded from detection and attempted to so do, such alien in any place

in violation of Title 8 United States Code, Section(s) 1324(a)(1)(A)(iii)

I further state that I am a(n) Special Agent with ICE and that this complaint is based on the following facts:  
See attached affidavit of SA Jennifer Alderete, ICE

Continued on the attached sheet and made a part hereof:

 Yes  No

Approved  
As To  
Form:  
Date: June 08

Sworn to before me and subscribed in my presence,

Bernard Zimmerman, Magistrate Judge

Name &amp; Title of Judicial Officer

Name/Signature of Complainant

at

City and State

Signature of Judicial Officer

**AFFIDAVIT**

I, Jennifer J. Alderete, being duly sworn, hereby depose and state as follows:

## I. INTRODUCTION

4        1. I am a Special Agent with the United States Immigration and Customs Enforcement (“ICE”),  
5        within the United States Department of Homeland Security (“DHS”). I have been employed in this  
6        capacity since January 2008. I am currently assigned to the ICE Human Smuggling/Trafficking  
7        Group, in the San Francisco Office. Before joining ICE, I was employed as a Special Agent with  
8        the U.S. Department of Labor, Office of Inspector General, from December 2001 through January  
9        2008. I have participated in numerous investigations involving labor related issues, including visa  
10        and labor certification fraud, the harboring of illegal aliens, wage violations, labor racketeering,  
11        pension and health related fraud. In accordance with my duties as a Special Agent, I am assigned  
12        to investigate violations of federal laws, including Conspiracy to Harbor an Illegal Alien and Induce  
13        an Alien to Enter the United States, 18 U.S.C. § 371; Bringing in and Harboring Certain Aliens, 8  
14        U.S.C. § 1324; Fraud and Misuse of Visas, Permits, and Other Documents, 18 U.S.C. § 1546;  
15        Involuntary Servitude, 18 U.S.C. § 1584; Trafficking, 18 U.S.C. §§ 1589-92; and Peonage, 18 U.S.C.  
16        § 1581.

## **II. PREMISE TO BE SEARCHED**

18 2. This affidavit is submitted in support of an arrest warrant for MABELLE DE LA ROSA  
19 DANN also known as MABELLE CRABBE (“DANN”), a complaint, and a search warrant to search  
20 the premises of Apartment #64, 1011 Ygnacio Valley Road, Walnut Creek, California, 94598, and  
21 a vehicle described as a four door 1997 Honda Accord license # 3XBH933, as described in  
22 Attachment A, to seize certain items which are the fruits, instrumentalities and/or evidence of  
23 violations of 18 U.S.C. § 371, Conspiracy to Harbor an Illegal Alien and Induce an Alien to Enter  
24 the United States, and 8 U.S.C. § 1324, Bringing in and Harboring Certain Aliens as described in  
25 this affidavit and Attachment B.

26 3. The statements contained in this affidavit are based on my own investigation, my training and  
27 experience as a law enforcement agent, on information provided to me by and or through other law  
28 enforcement agents, investigators and individuals with knowledge of this matter, and on information

1 I have obtained through my review of documents. This affidavit summarizes such information but  
2 does not purport to set forth all of the evidence gathered to date in this investigation. Based upon  
3 the information below, there is probable cause to believe that evidence and instrumentalities of  
4 Conspiracy to Harbor an Illegal Alien and Induce an Alien to Enter the United States, 18 U.S.C. §  
5 371 and Bringing in and Harboring Certain Aliens, 8 U.S.C. § 1324, will be found in the residence  
6 and vehicle described in Attachment A.

7 **III. DOCUMENT RETENTION**

8 4. Based on my training and experience, as well as information I obtained from other  
9 experienced agents in my group, I know that:

10 • Persons involved in the filing of fraudulent applications with the US Citizen Immigration  
11 Services ("CIS") often keep in their residences and/or vehicles genuine identity documents  
12 and/or copies of such identity documents, including, but not limited to, passports, visas, birth  
certificates, social security cards, photo identifications, and/or documents which are or have been  
issued by the CIS as proof of alien registration.

13 • Persons involved in the transportation of illegal aliens into the United States and/or the harboring  
14 of illegal aliens in the United States often keep in their residences and/or vehicles genuine  
identity documents, and/or copies of such identity documents, including, but not limited to, birth  
certificates, social security cards, various forms of photo identification, and/or travel documents,  
including, but not limited to, passports that may contain travel entry or exit stamps, visas, airline  
tickets or itineraries, and/or documents which are or have been issued by the CIS as proof of  
alien registration.

15 • Persons involved in the above-described activities often keep in their residences and/or vehicles  
16 tax returns or other documents, including, but not limited to, applications for Insurance benefit  
17 applications, medical records, etc., that list persons who are not family members as family  
members, or persons who are not legitimate dependents as dependents.

18 • Persons involved in such activities commonly maintain addresses or telephone numbers in  
19 books, papers, and/or electronic devices that reflect names, addresses, and/or telephone numbers  
20 of their associates and co-conspirators; or that reflect names, addresses and/or telephone numbers  
21 of aliens who have been illegally brought into the United States or are being harbored in the  
United States; or that reflect names, addresses and/or telephone numbers of the family members  
22 and associates of those aliens.

23 • Persons involved in such activities, particularly the harboring of illegal aliens, keep in their  
24 residences and/or vehicles, personal belongings of the victim(s) who were brought into the  
United States and/or were harbored, including, but not limited to, letters written to/and by the  
25 victim(s), photographs belonging to or depicting the victim(s), and clothing and other personal  
belongings of the victim(s).

26 • Because persons who commit the crimes of harboring and bringing in aliens into this country  
27 often require the assistance of persons outside the country in order to successfully bring in or  
harbor aliens, persons involved in such activities routinely maintain in their residences and/or

1 vehicles, letters to and from other coconspirators, including coconspirators from outside the  
2 country who are involved in assisting in the illegal activities. In addition these persons  
communicate through emails and make financial transactions over the computer with each other.

3 **IV. INVESTIGATION**

4 5. This investigation began in May 2008, when law enforcement officials were alerted to  
5 allegations that DANN, who resides at Apartment #64, 1011 Ygnacio Valley Road, Walnut Creek,  
6 California, 94598, had harbored and held a Peruvian female, Zoraida Pena-Canal ("Pena") in her  
7 home in Walnut Creek, California, exploiting her as a free domestic servant. Upon receiving this  
8 information I, along with other law enforcement officers, interviewed numerous individuals  
9 including the victim Pena. I have also reviewed documents including, but not limited, to those listed  
10 below:

- 11 • Alien Files of DANN, DANN's family members, and Pena;
- 12 • Property and lease records;
- 13 • DHS' Customs and Border Protection travel records;
- 14 • California Department of Motor Vehicle records;
- 15 • Police reports;
- 16 • Pacific Gas & Electric records;
- 17 • Airline records;
- 18 • Department of State visa application records;
- 19 • Law enforcement databases.

20 6. Based upon my investigation including, but not limited to, interviews with witnesses,  
21 interviews with law enforcement officers, and the review of documents and databases described  
22 above, I believe that there is probable cause to believe that DANN conspired to and smuggled Pena  
23 into the United States and harbored her in her residence in Walnut Creek, forcing her to work  
24 without pay as a domestic servant from July 2006 through April 2008, when Pena escaped.  
25 Whenever in this affidavit I assert that a statement was made by an individual, that statement is  
26 described in substance and in part, and is not intended to be a verbatim recitation of such statement.  
27 Additionally, this affidavit is not intended to include each and every fact and matter known to the  
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1 government relating to the subject matter of this investigation. Instead, this affidavit contains only  
2 those facts that are necessary to establish that there exists probable cause that DANN committed the  
3 crimes listed above, and that fruits, evidence and instrumentalities of the above-referenced criminal  
4 violations will be found at the target locations.

5 7. The Trafficking Victims Protection Act provides that Victims of Severe Forms of Trafficking  
6 in Persons who are aliens and potential witnesses to such trafficking may be allowed to remain  
7 temporarily in the United States to effectuate prosecution of those responsible for the trafficking.  
8 This temporary status in the United States is known as Continued Presence. Included in Continued  
9 Presence are benefits that include work authorization and Health & Human Services benefits.  
10 Continued Presence does not convey permanent status in the United States, though individuals in  
11 Continued Presence often apply for and receive T-Visas, allowing them to remain legally in the  
12 United States for a period of three (3) years after which they can apply for Legal Permanent  
13 Residency. Continued Presence can be revoked at the discretion of ICE if evidence should be  
14 obtained that the alien who has been certified for Continued Presence is not a Victim of Severe Form  
15 of Trafficking. A Continued Presence application has been filed for Pena along with an application  
16 for an employment authorization card.

17 **A. Conspiring and Harboring Illegal Alien For Financial Gain:**

18 8. Pena is a 30 year old Spanish speaking native and citizen of Peru. In July 2006, Pena was  
19 brought into the United States on a B1 visitor visa, through an agreement reached between DANN,  
20 a native of Peru and a naturalized United States citizen and Silvana La Rosa Fonseca ("La Rosa").  
21 This visa only allowed Pena to remain in the United States for three months as a domestic employee  
22 of La Rosa. However, DANN, La Rosa and Pena agreed that Pena would actually work for DANN  
23 (not La Rosa) as a domestic employee and would stay in the United States indefinitely, working for  
24 DANN for at least two years.

25 9. In approximately 2001, DANN learned of Pena through DANN's sister Martha, for whom  
26 Pena worked. Martha, who lived in Peru, told DANN that Pena was a good nanny and housekeeper.  
27 In July 2002, Pena began working for DANN as a nanny in Peru. At this time, DANN began trying  
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1 to bring Pena into the United States to work for her as a domestic servant with a contract that had  
2 terms that comported with United States labor standards. In reality, DANN and Pena had a contract  
3 with the following terms that would govern her employment in the United States: Pena would make  
4 \$600.00/month; receive 2 days off per week, provide childcare, be allowed to study English, and  
5 work from approximately 6:00 a.m. to 4:00 - 6:00 p.m. in the evening, depending on DANN's work  
6 hours. DANN showed Pena a photograph on the internet, depicting the large house in California  
7 where they would live and the large bedroom and private bathroom that Pena would live in. DANN  
8 explained that she would deduct Pena's plane ticket from her pay as follows: the first month in the  
9 United States, DANN would pay Pena \$200.00; the second through fifth month, DANN would pay  
10 Pena \$300.00; then beginning the sixth month Pena would make \$600.00 per month.

11 10. On August 13, 2002 and October 29, 2002, the U.S. Embassy refused Pena's application for  
12 a visitor visa to come to the United States to work for DANN. Beginning in June 2005, DANN hired  
13 a Peruvian woman named "Sylvia" to advise La Rosa and Pena on how to navigate the visa process  
14 and smuggle Pena into the United States on a visitor visa, so that she could reside with and work for  
15 DANN as a housekeeper and nanny. Sylvia worked to prepare La Rosa and Pena on how to pass the  
16 Embassy interview since Pena's two previous visa applications (August 13, 2002 and October 29,  
17 2002) were denied. This time, a B1 visa was granted, allowing Pena to stay in the United States for  
18 three months only. La Rosa was paid a one time fee of approximately \$7,000.00, including airfare  
19 for La Rosa and for Pena.

20 11. On July 27, 2006, Pena and La Rosa flew on American Airlines from Lima, Peru to Miami,  
21 Florida, and on to San Francisco, California. La Rosa held Pena's passport and visa from some time  
22 in 2005 through their trip to San Francisco. DANN met La Rosa and Pena at the San Francisco  
23 Airport. At that time, La Rosa gave DANN Pena's passport, visa and Peruvian identification. I have  
24 corroborated Pena's and La Rosa's date of entry into the United States through ICE records. I have  
25 also confirmed with American Airlines that both Pena's and La Rosa's tickets were purchased with  
26 DANN's Mastercard.

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1       12. Initially, from July 27, 2006 through September 2006, Pena lived with DANN, her three  
2 children and DANN's mother at DANN's mother's apartment in Walnut Creek, California. Then,  
3 from September 2006 through April 16, 2008, Pena, DANN and her three children moved into a 900  
4 square foot apartment, Apartment #64 at 1011 Ygnacio Valley Road in Walnut Creek, California.  
5 Throughout this time, Pena took care of the children, cooked and cleaned.

6       13. For the first year Pena resided in the United States, Pena rarely left the apartment. Pena  
7 worked for DANN approximately seven days a week from early in the morning until late in the  
8 evening, caring for DANN's three young children, cleaning the apartment, cooking for DANN and  
9 her children, and washing their laundry. Beginning in August 2006, Pena began picking up DANN's  
10 children from school and walking them home (1.5 miles in one direction). DANN timed Pena when  
11 she went to get the children by calling her on the apartment's telephone before she left and when she  
12 returned. As the months went by, Pena befriended individuals at the school who eventually helped  
13 her escape from DANN. Through my interviews of the victim and Cooperating Witnesses 2 and 3  
14 ("CW2" and "CW3"), I have corroborated this information. CW 2 and CW 3 stated that they saw  
15 Pena pick up DANN's children from school. They stated that Pena appeared unkempt and wore the  
16 same clothing each day. Throughout the time period she worked for DANN, DANN failed to  
17 provide her with any compensation.

18       14. DANN exerted tremendous control over Pena. DANN held Pena's visa, passport and  
19 Peruvian identification and took at least the passport with her in a black briefcase when she left the  
20 apartment. Throughout the time she was in the United States, Pena did not have control or access  
21 to her passport, visa or identification card. Frequently, DANN threatened Pena with deportation and  
22 by reminding her that she was illegally in the United States and had no rights. DANN told Pena that  
23 she would (falsely) accuse Pena (to the authorities) of stealing money from her if Pena left. DANN  
24 told Pena not to talk to anyone, that she could not trust anyone in the United States, that people were  
25 dangerous and would take DANN's children, and because Pena had no papers and did not speak  
26 English, if anyone discovered her here she would be deported. DANN took Pena's radio away and  
27 broke it, telling Pena that she did not want her to listen to Spanish speaking radio because it would

1 put ideas in her head. DANN also broke her mother's television when she learned that Pena had  
2 listened to Spanish television programs on DANN's mother television. DANN also told Pena that  
3 when you come to the United States you must suffer.

4 15. DANN verbally abused Pena. The verbal abuse escalated in the Fall/Winter of 2007-2008  
5 and occurred on a regular basis. On one occasion, in March 2008, DANN accused Pena of stealing  
6 money from her purse and screamed at her, grabbing Pena around the neck. On a 2007 - 2008  
7 calendar on the kitchen wall of DANN's apartment, Pena made marks in red "x's" to indicate  
8 whether or not she had been verbally abused by DANN. This calendar is described as an Indian  
9 Valley School calendar in various colors displaying different animals.

10 16. Initially, Pena slept in the living room of DANN's apartment, on a sofa. Later DANN told  
11 her to sleep on the floor of the living room, with a sheet and three blankets, which are roughly 6 feet  
12 by 6 feet, described as (1) a sky blue and white blanket with baseball print; (2) a white blanket; (3)  
13 a tan blanket; and (4) a beige sheet. Pena left the blankets, sheet and her pajamas in a clear plastic  
14 bag in the living room when she fled the residence on April 16, 2008. As time went on, DANN  
15 began to ration the food eaten by Pena. DANN weighed the meat she purchased at the grocery store  
16 and at home and counted the number of fruit in the household. DANN forbade Pena from eating  
17 fruit and ultimately began hiding food in her room to k  
18 eep it from Pena.

19 17. In December 2006, DANN gave \$100.00 to Pena. Pena asked if it was a gift or her pay.  
20 DANN told her it was a gift and her pay was \$600.00 per month.

21 18. In March 2007, DANN opened a bank account at Washington Mutual Bank in Pena's name,  
22 telling Pena this account was where DANN was going to put Pena's pay, using the address of the  
23 target location (Apartment #64). In October 2007, DANN explained to Pena that she had not been  
24 paying her as agreed and did not know how to tell her. DANN said that instead of paying Pena,  
25 DANN had been deducting \$300.00 per month for Pena's work from the debt Pena owed her.  
26 DANN stated the debt totaled \$7,000.00, which included the airline tickets for Pena and La Rosa and  
27 the fee DANN had paid Sylvia and La Rosa for bringing Pena to the United States. As time went  
28

1 on, DANN added numerous other items to Pena's debt, including DANN's expenses in Peru,  
2 including her costs of searching for nannies prior to hiring Pena, touring Peru, clothing and other  
3 items DANN had bought for Pena, and clothing DANN had bought for her children, increasing  
4 Pena's debt to roughly \$13,000.00 to \$15,000.00. Later, in April 2008, after she escaped, Pena  
5 closed the Washington Mutual account over the phone with the assistance of a friend Cooperating  
6 Witness 1 ("CW1") and left the remaining \$450.00 frozen in the account. These bank statements  
7 were mailed in Pena's name, to Apartment #64 and DANN kept them in her room, on her bedroom  
8 desk and in her locked briefcase. DANN kept the ATM card for this account, which was in Pena's  
9 name, on her bedroom desk.

10 19. During the investigation, numerous witnesses have corroborated Pena's presence in the  
11 United States and her work for DANN. I have interviewed CW2 and CW3 who have confirmed that  
12 Pena picked DANN's twin boys up from the Indian Valley Elementary School in Walnut Creek on  
13 a regular basis and that she shared with them details of what was happening to her, including the fact  
14 that she was not paid, her food was restricted, and she was being abused by DANN.

15 **B. Items believed to be at residence**

16 20. Based on my investigation, experience, and training, I believe there is probable cause to  
17 believe that there will be evidence, fruits, and instrumentalities of violations of 18 U.S.C. § 371,  
18 Conspiracy to Harbor Pena, an Illegal Alien and Induce Pena to Enter the United States, and 8 U.S.C.  
19 § 1324, Bringing in and Harboring Pena at Apartment #64. Based on my investigation, training, and  
20 experience, I believe that there will be evidence and indicia at Apartment #64 that relates to these  
21 crimes. A detailed list of items to be searched for and seized at Apartment #64 is set forth in  
22 Attachment B to this affidavit.

23 21. Based on my investigation, experience, and training, I also believe that there is probable  
24 cause to believe that DANN's cell phone, answering machine, laptop computer, and two personal  
25 computers located at Apartment #64 will contain evidence and are instrumentalities of the violations  
26 being investigated. Therefore, I am requesting that the search warrant authorize law enforcement  
27 to search these items for evidence and as instrumentalities of the violations being investigated.

1 Based on my experience and training, I know that the cell phone will contain a directory and history  
2 of phone calls that may remain for an extended period of time.

3 22. Based on my investigation, experience and training, I also believe that the computers or  
4 electronic media located at Apartment #64 will contain e-mails, photographs, videos, or  
5 correspondence related to violations being investigated. Therefore, I also request that the search  
6 warrant authorize the search and seizure of any computers or electronic media at Apartment #64, as  
7 specified in more detail in Attachment B to this affidavit and in accordance with the protocol set  
8 forth in Attachment C to this affidavit, with both attachments incorporated by this reference.

9 23. During my interview of Pena, I have learned that she left the following items behind in  
10 DANN's home when she fled on April 16, 2008 –

- 11     ● Personal items in a linen closet in the hall off of the living room, including —
  - 12         ● Black leather boots, approximately size 6, zip up, pointy toes, ankle length, tall heels;
  - 13         ● Small/medium, wool blue blazer with large buttons and a belt, and a striped white and black nylon lining, brand name "Gap";
  - 14         ● Brown jacket with red and green lining;
  - 15         ● Turquoise bathing suit;
  - 16         ● Red cotton vest, with cowl neck and elastic waist;
  - 17         ● Beige hooded sweater with feathers;
  - 18         ● Assorted t-shirts and undergarments;
  - 19         ● Sky blue and pink pajamas;
  - 20         ● Green and white pajamas;
  - 21         ● White and green battery operated toothbrush;
  - 22         ● Small white zipped bag containing makeup;
  - 23         ● Purple bag containing perfume and candles;
  - 24         ● Black leather purse without pockets, containing earrings;
  - 25         ● Radio;
  - 26         ● Black nylon duffle bag, approximately 3 feet by 1 foot, with white lettering, handles and a zipper and two pockets on each side.
- 27     ● Additional personal items left in the residence, vehicle, or on DANN's person —
  - 28         ● Pena's passport, visa, and Peruvian identification kept in a ziplock bag and contained within DANN's black briefcase with wheels;
  - 29         ● Pink sandals left in a brown basket near the front door in the living room;
  - 30         ● Sky blue and white blanket with baseball print;
  - 31         ● White blanket;
  - 32         ● Tan blanket;
  - 33         ● Beige sheet.

25 24. Through my investigation, I have learned that there are numerous items of additional  
26 evidence, documenting and corroborating Pena's presence and work in DANN's residence, including  
27 but not limited to –

- 1     ● Index cards, approximately 5" by 3" in size, with handwritten chores for Pena to  
2     perform, last seen on approximately April 15, 2008, in a drawer in the kitchen next  
   to the stove;
- 3     ● DANN's handwritten or typed notes documenting Pena's debt to her, maintained on  
4     DANN's bedroom desk.;
- 5     ● Employment contracts involving Pena;
- 6     ● DANN's digital camera, photographs, video camera and videotapes which have  
7     documented Pena, including but not limited to:
  - Photograph of Pena and DANN's children on a bookshelf in the living room.
  - Videotape of Pena and DANN's children at a 2007 birthday party.
- 8     ● International calling cards.

9     25. I have learned through my investigation that DANN used her cell phone several times a day  
10 to contact Pena at the residence in order to confirm her presence at DANN's residence, at times  
11 leaving messages on the residence telephone answering machine. Pena also left voice messages on  
12 DANN's cell phone, including ones on March 26, 2008 and March 27, 2008.

13     26. On April 16, 2008, after Pena left DANN's apartment, a cooperating witness Cooperating  
14 Witness 4 ("CW4") reported DANN's abusive conduct to La Raza, a nonprofit organization, located  
15 in San Francisco, California. La Raza notified ICE. On this same day, police officers with the  
16 Walnut Creek Police Department went to DANN's residence and confronted DANN's mother and  
17 later DANN. Both DANN and her mother denied having any of Pena's belongings. ICE has  
18 corroborated this by reviewing the police report and speaking with the police officers.

19     27. During the time she was kept at DANN's home, Pena was illegally in the country, as she  
20 initially came in under a visa requiring her to work for La Rosa and then continued on in the United  
21 States beyond her three month visa working for DANN. Based on my investigation, I believe that  
22 DANN was aware Pena was in the United States illegally.

23     **C. Target Search Locations**

24     28. As noted above, this affidavit requests a search warrant for the residence known as  
25 Apartment #64, 1011 Ygnacio Valley Road, Walnut Creek, California, 94598, the location at which  
26 Pena was kept from approximately September 2006 through April 2008, and for DANN's vehicle.  
27 I have confirmed that DANN resides at this address through a check of California Department of  
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1 Motor Vehicle ("DMV") records, Pacific Gas & Electric records and lease records. The lease  
2 agreement for the apartment, signed by DANN, shows she began occupying the premises on  
3 September 15, 2006. This lease agreement lists the individual occupants of the apartment as DANN  
4 and her three children – it does not list Pena. Both the landlord and handyman told me that they did  
5 not know any other adult resided at the apartment. I have learned from an interview with the  
6 landlord and handyman of the apartment, that DANN and her children continue to live at this  
7 residence. On June 5, 2008, ICE agents conducted surveillance of the apartment and witnessed  
8 DANN and her mother at the apartment. The DMV has DANN's 1997 Honda Accord license #  
9 3XBH933 registered to the target residence. Based on my experience and on discussions with those  
10 in my group, I know that the items listed above and in Attachment B are kept by persons involved  
11 in the above-listed crimes for long periods of time and I believe that fruits, evidence and  
12 instrumentalities of the listed crimes will be found at the target residence and automobile.

13 **V. PERMISSION TO SEIZE COMPUTER SYSTEMS AND PERIPHERALS**

14 29. During the course of my investigation, I learned from Pena that DANN has three computers:  
15 (1) a personal computer in the living room; (2) a laptop that DANN carries in her briefcase; (3) a  
16 personal computer in the children's room. Pena told me that DANN has a digital camera and video  
17 camera which have documented Pena's presence in the United States. I also learned from Pena that  
18 DANN uploaded photographs and videos from her digital camera and video camera onto her laptop  
19 computer and onto her personal computer in the living room. Based on my experience and based  
20 on the experience of agents I work with, I understand that individuals like DANN who employ  
21 individuals as domestic servants, inadvertently take photographs and videos of these individuals at  
22 family functions and other events. These photographs and videos are generally saved on persons like  
23 DANN's computer for family records and are evidence of Pena's presence in DANN's residence and  
24 corroboration of her domestic work for DANN. I have learned that the digital camera is maintained  
25 in a black 12" by 7" nylon bag with video tapes and kept in DANN's bedroom closet.

26 30. DANN opened an email account in Pena's name and one in her own name. In my  
27 experience and based on the experience of agents I work with, I understand that individuals like  
28

1 DANN generally use their email accounts to correspond to their relatives and friends in foreign  
2 countries to discuss their lives and the lives of those with whom they live.

3 31. The agents will use the protocol attached to this affidavit as Attachment C to search and  
4 seize computer systems and peripherals located at the premise.

5 32. Based on my knowledge, training and experience, I know that deleted information remains  
6 imaged on the hard drive and therefore is retrievable by a computer forensics expert. I also know  
7 that the presence of a computer in an office frequently indicates that business books and records are  
8 being maintained on the computer.

9 33. Computer hardware, software, documentation, passwords, and data security devices may be  
10 important to a criminal investigation in two distinct respects: (1) the items themselves may be  
11 instrumentalities, fruits, and/or evidence of crime; and/or (2) items may have been used to collect  
12 and store information about crimes (in the form of electronic data). Thus, Rule 41 of the Federal  
13 Rules of Criminal Procedure permits the government to search and seize computer hardware,  
14 software, documentation, passwords, and data security devices which are: (1) instrumentalities, fruits  
15 and/or evidence of crime; and/or (2) storage devices for information about crimes.

16 34. Based on my knowledge, training, and experience, I know that searching and seizing  
17 information from computers often requires agents to seize most of all electronic storage devices  
18 (along with related peripherals) to be searched later by a qualified computer expert in a laboratory  
19 or other controlled environment. This is true because of the following: I know that data analysts may  
20 use several different techniques to search electronic data for evidence or instrumentalities of crime.  
21 These techniques include, but are not limited to, the following: (1) examining the directories and  
22 subdirectories for the lists of the files they contain; (2) "opening" or reading the first few "pages"  
23 of selected files to determine their contents; (3) scanning for hidden or deleted data; (4) searching  
24 for key words or phrases ("string searches"). I also know that searching and seizing information  
25 from computers often requires agents to seize most or all electronic storage devices (along with the  
26 related peripheral drives) to be searched by a qualified computer expert in a laboratory or other  
27 controlled environment.

28

1       a. *Volume of evidence.* Computer storage devices (like hard disks, diskettes, tapes, laser  
2 disks, Bernoulli drives) can store the equivalent of thousands of pages of information. Additionally,  
3 a suspect may try to conceal criminal evidence; he or she might store it in random order with  
4 deceptive file names. This may require searching authorities to examine all the stored data to  
5 determine which particular files are evidence or instrumentalities of crime. This sorting process can  
6 take weeks, depending on the volume of data stored, and it is impractical to attempt this kind of data  
7 search on site.

8       b. *Technical requirements.* Searching computer systems for criminal evidence is a highly  
9 technical process requiring expert skill and a properly controlled environment. The vast array of  
10 computer hardware and software available requires even computer experts to specialize in some  
11 systems and applications, so it is difficult to know before a search which expert is qualified to  
12 analyze the system and its data. Data search protocols are exacting scientific procedures designed  
13 to protect the integrity of the evidence and to recover "hidden", erased, compressed, password-  
14 protected, or encrypted files, and computer evidence is extremely vulnerable to inadvertent or  
15 intentional modification or destruction (both from external sources or from destructive codes  
16 imbedded in the system as a "booby trap"). A controlled environment is therefore essential to the  
17 complete and accurate analysis of computer information. Accordingly, I respectfully seek authority  
18 to search electronic data, and, if necessary, to seize all pertinent electronic storage devices (along  
19 with related peripheral drives) to be searched by a qualified computer expert in a laboratory or other  
20 controlled environment.

21       35. The agents/computer personnel searching for such information seek authorization to search  
22 any desktop, other "personal computer," laptop or personal computer located on the premises to be  
23 searched and to copy the information stored on such computers. They further seek authorization to  
24 search for any and information that may be stored on magnetic media, including computer hard  
25 drives, diskettes, tapes, or any other media capable of storing information in a form accessible  
26 through the use of a computer or word processor. The computer forensics expert, when searching  
27 for evidence authorized under the warrant, will take reasonable steps to avoid searching for and  
28

1 viewing documents which are not authorized under the warrant. These steps include the  
2 identification of non-pertinent directories and files. The computer forensic expert will not disclose  
3 the content of any file not covered under the warrant to the investigators.

4 36. The terms "records," "documents," and "materials" include all of the items described in  
5 Attachment B in whatever form and by whatever means they may have been created and/or stored.  
6 This includes any handmade, photographic, mechanical, electrical, electronic, and/or magnetic  
7 forms. It also includes items in the form of computer hardware, software, documentation,  
8 passwords, and/or data security devices.

9 **a. Computer Hardware** – Computer hardware consists of all equipment which can collect,  
10 analyze, create, display, convert, store, conceal, or transmit electronic, magnetic, optical, or  
11 similar computer impulses or data. This includes any data-processing devices (such as  
12 central processing units, memory typewriters, and self-contained "laptop" or "notebook"  
13 computers); internal and peripheral storage devices (such as fixed disks, external hard disks,  
14 floppy disk drives and diskettes, tape drives and tapes, optical storage devices, transistor-like  
15 binary devices, compact flash cards, smart media cards and other memory storage devices);  
16 peripheral input/output devices (such as keyboards, printers, scanners, plotters, video display  
17 monitors, and optical readers); related communications devices (such as modems, cables and  
18 connections, recording equipment, RAM or ROM units, acoustic couplers, automatic dialers,  
19 speed dialers, programmable telephone dialing or signaling devices, and electronic  
20 tone-generating devices); as well as any devices, mechanisms, or parts that can be used to  
21 restrict access to computer hardware (such as physical keys and locks).

22 **b. Computer Software** – Computer software is digital information which can be interpreted  
23 by a computer and any of its related components to direct the way it works. Software is  
24 stored in electronic, magnetic, optical, or other digital form. It commonly includes programs  
25 to run operating systems, applications (like word-processing, graphics, or spreadsheet  
26 programs, utilities, compilers, interpreters, and communications programs).

1                   **c. Computer-related Documentation** – Computer-related documentation consists of  
2 written, recorded, printed, or electronically stored material which explains or illustrates how  
3 to configure or use computer hardware, software, or other related items.

4                   **d. Computer Passwords and Other Data Security Devices** – Computer passwords and  
5 other data security devices are designed to restrict access to or hide computer software,  
6 documentation, or data. Data security devices may consist of hardware, software, or other  
7 programming code. A password (a string of alpha-numeric characters) usually operates as  
8 a sort of digital key to "unlock" particular data security devices. Data security hardware may  
9 include encryption devices, chips, and circuit boards. Data security software or digital code  
10 may include programming code that creates "test" keys or "hot" keys, which perform certain  
11 pre-set security functions when touched. Data security software or code may also encrypt,  
12 compress, hide, or "booby-trap" protected data to make it inaccessible or unusable, as well  
13 as reverse the process to restore it.

14                  37. As previously set forth, the actual search of a computer and related software in the controlled  
15 environment of a laboratory is a complicated process which takes in excess of ten days to complete.  
16 It often takes weeks or months to complete. Against this background and based on my training and  
17 experience, I hereby request 60 days from the date of seizure to complete the search under controlled  
18 conditions.

19                   **VI. STATEMENT OF PROBABLE CAUSE**

20                  38. Based on all of the facts and circumstances described in this affidavit for search warrant,  
21 along with my training, experience, and consultations with others, there is probable cause to believe  
22 that the items described in Attachment B are currently located at the premise described in  
23 Attachment A, that those items constitute evidence, fruits, and/or instrumentalities of violations of  
24 Conspiracy to Harbor an Illegal Alien and Induce an Alien to Enter the United States, 18 U.S.C. §  
25 371 and Harboring an Alien for Financial Gain, 8 U.S.C. § 1324.

26                  38. This investigation is ongoing and the subjects of the investigation are not aware that they  
27 are being investigated. Therefore, I request that the Court seal the search warrant, complaint, arrest  
28

1 warrant until further order of the Court.

2

3 I declare under the penalty that the foregoing is true and correct to the best of my knowledge and  
4 belief.

5

6 Executed on this 5 day of June 2008, at San Francisco, CA.

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Sworn and subscribed before me on this 5 day of June 2008.

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Bernard Zimmerman  
BERNARD ZIMMERMAN  
United States Magistrate Judge

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JENNIFER ALDERETE

Special Agent

Immigration and Customs Enforcement

**ATTACHMENT A**

The locations to be search are –

Residence: CYPRESS CREEK APARTMENTS, Apartment #64, 1011 Ygnacio Valley Road, Walnut Creek, California, 94598. This residence is described as follows: The apartment building is a two story building and is made of stucco. The building is mustard in color and is located at the corner of Ygnacio Valley Road and Walnut Boulevard. Apartment #64 is located on the southwest corner of the building on the second floor. Number "64" is visibly printed on the wall of the patio of Apartment #64 and on the door of Apartment #64. The front door to the apartment is facing North. The apartment is 900 square feet and one level.

Vehicle: 1997 Honda Accord license # 3XBH933, grey in color.

**ATTACHMENT B**

1. Documents Related to Bringing Pena's into the United States – For the time period January 2002 to the present, any and all documents and records relating to attempting to bring and bringing Pena into the United States, including –

a. Records and documents relating to obtaining a visa for Pena's entry into this United States including, but not limited to, correspondence between individuals and DANN, La Rosa, "Sylvia", and Pena; phone numbers and addresses of La Rosa, "Sylvia", Pena and other unknown coconspirators; agreements or contracts between La Rosa, "Sylvia", DANN, Pena and other unknown coconspirators; payments for fees related to preparations in Peru, Embassy visits, itineraries, airline tickets for La Rosa and Pena; DANN's check book register, credit card statements; handwritten lists of costs associated with Pena.

b. Any agreement, emails or other correspondence between DANN, La Rosa, "Sylvia" or other unknown coconspirators to bring Pena into the United States, credit card charges, checks and cash showing payment for such agreement.

c. Agreement or contract documenting the conditions of Pena's employment in the United States.

d. Address and/or telephone notebooks and papers, including any computerized or electronic records, reflecting names, addresses, and telephone numbers of La Rosa, "Sylvia", DANN's mother, Pena or other unknown coconspirators.

e. Travel documents and records for La Rosa and Pena, including but not limited to, passports, visas, passport and visa applications, immigration applications and/or petitions, passport and visa photographs, airline tickets, boarding passes, and airline ticket receipts.

f. Photographs of co-conspirators La Rosa, "Sylvia", Pena, DANN's mother, or other unknown coconspirators.

g. Identity documents for Pena, including, but not limited to, birth certificates and/or documents which are or have been used by the INS as proof of alien registration or legal nonimmigrant status in the United States.

1       2. Bank Related Documentation –

2           a. During the time period March 2007 to the present, any and all documents and records  
3 relating to a bank account opened at Washington Mutual in approximately March 2007 in the name  
4 of Pena, including bank statements, ATM cards, canceled checks, checkbooks, signature cards, bank  
5 deposit and withdrawal slips, cashier's checks, money orders, wire transfers, any transfers of money  
6 to or from this account, checking, savings, money market accounts or other accounts, safe deposit  
7 box information and keys, any documents associated with this account with Pena's signature.

8           b. During the time period January 2002 through May 1, 2008, bank statements relating to  
9 any bank accounts held by DANN, indicating whether she paid or failed to pay Pena during the time  
10 period 2002 through April 2008.

11           3. Pena's Personal Items –

- 12           ● Three blankets which are roughly 6 feet by 6 feet and described as (1) sky blue and white  
13           baseball print; (2) white blanket; (3) tan blanket;
- 14           ● Beige sheet
- 15           ● Black leather boots, approximately size 6, zip up, pointy toes, ankle length, tall heels;
- 16           ● Small/medium, wool blue blazer with large buttons and a belt, and a striped white and black  
17           nylon lining, name brand "Gap";
- 18           ● Brown jacket, the inside of which is red and green;
- 19           ● Turquoise bathing suit;
- 20           ● Red cotton vest, with cowl neck and elastic waist;
- 21           ● Beige hooded sweater with feathers;
- 22           ● Assorted T-shirts and undergarments;
- 23           ● Sky blue pajamas and pink pajamas;
- 24           ● Green and white pajamas;
- 25           ● Battery operated toothbrush, white and green;
- 26           ● Small white zipped bag containing makeup;

- 1     ● Purple bag containing perfume and candles;
- 2     ● Black leather purse without pockets, containing earrings;
- 3     ● Radio;
- 4     ● Black suitcase, without wheels, approximately 3 feet by 1 foot, with white lettering, handles  
5        and a zipper and two pockets on each side;
- 6     ● Any letters or other correspondence written to or from Pena;
- 7     ● Passport, visa, Peruvian identification;
- 8     ● Pink sandals;
- 9     ● International calling cards.

10

11     4. Any Other Items Documenting Pena's Presence in DANN's Residence – Any and all records  
12     relating to Pena's presence and work employment in DANN's residence including, but is not limited  
13     to –

- 14       ● Manilla index cards, approximately 5" by 3" in size, with handwritten chores for  
15        Pena to perform, last seen on approximately April 15, 2008, in a drawer in the  
16        kitchen near to the stove;
- 17       ● DANN's handwritten or typed notes documented expenses relating to Pena  
18        maintained on DANN's bedroom desk. Pena saw one of these accountings on  
19        DANN's bedroom desk in February 2008;
- 20       ● Digital camera, photographs, a video camera, and video tapes documenting Pena's  
21        presence;
- 22       ● DANN's cell phone;
- 23       ● DANN's answering machine;
- 24       ● 2007-2008 calendar in the kitchen wall from Indian Valley School, in various colors,  
25        with various animals;
- 26       ● Black briefcase, containing Pena's passport, visa, and Peruvian identification.

27

28     5. Tax Documents – DANN's tax returns, tax return information, copies of tax returns,  
correspondence regarding taxes, and information returns relating to identifying claimed dependents  
and domestic servants.

1       6. Indicia of Occupancy – All documents relating to the occupancy of the premises and the use  
2       of the vehicles at the premises, including utility bills, correspondence, and driver's license.  
3

4       7. Computer Related Items – As stated above in Section V, paragraph 31, agents will use the  
5       protocol attached to hereto as Attachment C to search and seize computer systems located at the  
6       premise.  
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